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173 we have often borrowed. We would find similar ones outside of the Seksawa: for example, in Mez'ud'a, in Mtugga, to restrict ourselves to only immediate neighbors. The existence of such annals reveals a character of the country more profound than its propensity for heroic destinies.

In this country, individuals mark /Fr. marquent, mark, stamp, indicate, testify/, things happen. As paradoxical as the observation may appear, it is not so common in the past of North Africa. Let us understand that here the event leaves its trace in a collective memory. It does or does not utilize writing. In any case, it fixes something much more precise than the simple continuity from generation to generation. /90/ These memories, [538] conscious and detailed, full of imagery and dramatic, even flourish in the literature. For one who has visited other populations, [171] those of the Gharb, for example, what a surprise! In this world of the Atlas, society has a feeling of its own duration. It punctuates its past with victories and vicissitudes. The permanence of family archives depends on the constancy of the group chronicles, from which great figures naturally stand out.

631 These chiefs are temporal chiefs. Not the least attribution in the Frazerian manner. No "kings," but an intendant, a captain, an administrator. This milieu practices the separation of powers. Elsewhere, perhaps, or in other times, dynasties of "marabouts" claimed a mystic efficiency: in origin at least, for the action very soon became profane. Here, on the contrary, in what might

[67] be called the public law, both between taqbilt-s and within any [171] one among them, the relation between the sacred and the secular is determined by sharing and contracts, not by confusing one with the other. The aptitude of these societies to record their pasts is explained. No longer does patriarchal indivision reign over individual and community activities, but a careful demarcation; the continuance of the group does not vanish in fleeting perspectives: ancestor saints or golden age. But at all stages the same careful little man is discovered, capable of virtues and subject to the weaknesses of his distant descendants. Individual differentiation, demarcation between the person and the community, the

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correlative traits without doubt. The religious life of the Sek-sawa has undoubtedly been hierarchized for a long time. At the top, a national saint. Far below, a saint of more ordinary type, Sidi Mh'and of Ammern; accessit: Sidi Lah'sen of Assttif, recent historical personage; still lower the classic plebe of "good little saints." In rite, as in belief, vigorous centralization, but, by /240/ that itself, elimination, purification. The great majority of these plebeians of prayer remain without visage, without cult, indeed without name. Over the great ones is exercised a criticism which springs not only from the malice of the milieu or from problematical orthodox influences, but undoubtedly also from the imperious polarization of the system.

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On the other hand, the nonfigurative sacred abounds. It has as support, very often, these little village mosques from where, it is said, the prayer ascends directly to God, whereas in passing by way of its saints it risks hitting only the archangel Gabriel, Sidna Jebrir. The pious explanation leaves out the communal character of the sanctuary. But this character is very important, and very likely the most ancient. On this level of local life traits of ind-division are always observed among religious and juridical rites. In spite of so many external influences, and internal transformations, this is still in many respects one of the foundations of the life of the groups. Only, in religious matters, as in juridical matters, this narrowly local life is integrated into an ensemble which acts upon it at least as much as it acts upon it.

Situation of Seksawa Law in Relation to Its Neighbors

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The Seksawa feel a fundamental difference between their law and that of their neighbors, like them old sedentary peoples of the western Haut-Atlas /High Atlas/, such as especially Idaw Mh'mud, Demsira, Dwiran, people of the Haut Asif el-M'sl and of the Aghbar. They fail to analyze it. In fact, their law fits in- to the Chleuh /Shluh/ ensemble. It stands out only by differences in detail. But they are vigorous and, so to speak, systematic.

619 /241 cont./
634 cantons complex rules govern the validity of the notarial writing
671 itself. Thus, in Nfifa, only the act drawn up by native t't'olba
184 or North Demsira or Mtugga is good. Otherwise it is no longer acceptable.

619 Mechanism of cellular defense, one might say. And also
182 diversified code of exchanges between cells. Legislating for it-
184 self, protected from its neighbors by invalidations, restrictions,
or stipulations, surrounded by this type of armor that the doubling
of the procedural rate constitutes, the group certainly, and al-
though its law differs but little, poses as an individual.

184 It will thus be legitimate to speak of the Seksawa system,
original part of the Chleuh /Shluh/ ensemble. And if it is still
impossible, or merely premature, to define clearly the relations
of this originality to the surrounding originalities or to the matter
of the ensemble, one will not, for all that, let oneself be caught
by this methodological grief that every investigator of the North
African institution feels at first before the immensity of the tasks
and the insufficiency of the materials.

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Presence of Islam in the Law

• 779 There is, moreover, a certain angle from which -- paradoxi-
671 cally enough, since indeed more ample -- the problem has been
not only scrutinized by Islamic and European science (1).

1. One thinks especially of the studies of
M. Morand, L. Milliot, R. Maunier,
G.-H. Bousquet.

but experimentally felt, lived by the foreigner. It is that of the
relations between such-and-such "customary law" and the Mussul-
man law. In fact, we believe, the political or cultural discord-
ancy of the upper valleys is far from revealing any rupture in the
moral or geographic continuity of the Maghrebi societies. The
Mussulman law, acting everywhere, albeit unequally, on native
factors, combines with them in a diversity that nevertheless is

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ordered by great masses: the Chleuh /Shluh/ bloc is one of these masses.

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On the first problem, that of the acceptance of eastern norms, we lack sufficiently precise historical data. It is in fact a matter of an old evolution of at least a millennium, whose point of departure and principal stages escape us. At the most we are thereupon reduced to hypotheses on which one could not legitimately base the account. Therefore, it will be best to have recourse to observations from the present and from the immediate past.

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Our juridical expansion in North Africa collided with that of another system, already anciently established -- and also which recovers with time an aggressive vigor -- the Mussulman law, or fiqh. The stake of the competition was and still is to provide the decisive part in the organization of the social relations and in the ethics of the Maghrebi man. But the rivals are not grappling only with each other. They have found before them, beneath them, more or less intact or degraded, more or less compact or scattered, the vestiges of indigenous laws, which it is conventional to put together under the generic appellation of "Berbère /Berber/ custom."

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This is to say that this term of custom is not taken here in the strict sense that the jurists sometimes give it (2).

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2. Cf. the Romano-canonical theory of custom and the masterly discussion of it done by Ed. Lambert, La fonction du droit civil comparé /The function of comparative civil law/, 1920, pp. 113 sq.

In many cases, in fact, this "custom" presents characteristics of rational cohesion, legislated expression, indeed even written codification, which are the very ones of the law. In fact, "custom," for the Maghreb, is the law of the predecessor and competitor. If the Mussulman cadi suppresses, /243/ in the domain of a custom that he will never recognize as normative,

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the whole ensemble of local law of an inspiration outside of or prior to Islam, the French magistrates of Algeria consider as a body of customs the ensemble of local laws, of Islamic origin or not, in contrast to the Civil Code. Did not one of our sociologists some twenty years ago entitle a work, and not one of the least ones: Loi française et coutume indigène en Algérie /French law and native custom in Algeria/ (1)?

1. R. Maunier, 1932, a book moreover picturesque and intuitive.

A second qualification is to be made concerning the term of "Berbère" /Berber/. The ubiquity of this local law, more or less even, makes very difficult its qualification as Arab or Berbère. The fact is that its most coherent expression appears especially in Berbérophone sectors, forming by that also a figure of reserves or of archeological evidence. Sectors which have constituted, for the Arabs as well as for us, both the most expressive sign and the extreme case of an autochthonous genius. A quite superficial view.

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171 For Mussulman orthodoxy, the existence of the Berbères /Berbers/, and, with all the more reason, of a Berbère law, is an intolerable scandal. W. Marçais has acted justly to observe the very particular malevolence with which the geographer al-Yāqūt stigmatizes, in the note that his dictionary devotes to them, "the singularity and the excess" of this race, h'ida wa t'aych (2).

2. Yāqūt, Mu^cjam (1224), Wustenfeld ed., 1870, in the art. barbar., t. I, pp. 540 sq. He is struck by some aberrant aspects: ah'wāl 'ajība wa iqt'ilāh'āt gharība. W. Marçais observed that the entire note is of an unusual violence.

171 The last word, still living in dialectal Arabic, recovers the ancient notion hybris, "immoderation." Now many Eastern Bedouins

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171 are governed by a customary law, which, among the sedentary Yemenites, for example, is stated even in codifications bearing the singular name of t'aghūt (3).

3. Ettore Rossi, "Il diritto consuetudinario delle tribù arabe del Yemen /The consuetudinary law of the Arab tribe of the Yemen/", Rivista degli Studi orientali, fasc. I-IV, 1938, describes a whole patriarchal and chivalrous society where interdictions protect the guest, the suppliant, the client, the refugee, the traveling companion, and up to the namesake. There are even some dissertations on the man^C, an idea related to the taboo. Some problems, such as that of the disinheriting of the woman, are posed simultaneously for this society and for those of North Africa, in relation to which it offers, moreover, a more archaic shading. The homogeneity of the problems and of the solution that is applied to them is nonetheless suggestive. After the description, already old, of P. Jaussen, E. Rossi's article constitutes a new and considerable contribution to the knowledge of an Arab customary law.

671 That way, even the juridical originality of the Moroccan mountains, to take an extreme case, could only, in the eyes of the
779 orthodoxy, be absorbed in this theme of survivals or rural deviations, of this "eternal Bedouin," both nightmare and reason for
171 being of the proselytism of the towns.

/244/ Certain traits of the Mussulman juridical technique must have contributed enormously to this unitary confusion (1).

1. On all this, see J. Berque, tr. of al-Wazzāni, Les Nawāzil al-Muzāra^{-Ca}

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/footnote 1 continued/ du Mi^cyâr /The
Nawâzil al-Muzâra-^ca of the Mi^cyâr/.
1940, pp 27 sq., and Essai sur la méthode
juridique maghrébine /Essay on the Maghrebi
juridical method/, 1944, pp. 33 sq.

First the concept of d'arḍra, "necessity," and "law-making necessity," which allows absorbing, without derogation of principle, all resistant and aberrant facts, because one cannot master them, and without there being any question of penetrating their shell. Then, in the same sense, this Malekite opportunism imposing in the name of the "social good," maḡlah'a, the acceptance of the illicit: but momentary, precarious and almost haughty. Finally the immoderate role of the presumptions in the penal and civil law has introduced, under the appellations of Corf and of Cāda, "usage," a mass of local institutions, but, it goes without saying, without recognition of their character of internal obligation.

Consequently, the negation both instinctive and rational of the Berbère /Berber/ law by Islam is accompanied, in the juridical technique, by multiple means of absorbing it without admitting it. And not only without concession of legitimacy, but without an attempt at analysis. Consequently the Maghrebi reality has maintained the fiqh as an immense stock of facts without justification or depth.

For the strict orthodoxy, there is no problem of customary law.

006 Quite the contrary, the European exegesis, after long gropings in Algeria, and especially under the influence of institutional spontaneity, which it discovered in Kabylie /Kabylia/, then in Morocco, has let itself be dominated by a realism as unattackable, as long as it rests content with observation of the facts, as it is hazardous when it finds other inspirations. The joy of discovery has perhaps sometimes brought about a belief in a primitivism all the more malleable and assimilable as certain Mediterranean affinities "defended" it against the Orient: from there to the simplistic idea of division, there is only one step, which the system's detractors have not failed to make it cross.

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Let us proceed to the attitude of the user. Last, for this user is shy. He perseveres, certainly, but apologizes for it, or he does not even know himself. The two poles of this attitude are that he makes use of a superior system, which is Islam, fiqh included, and that concurrently he clings to a cantonal particularism, a sort of Proudhonian liberty which implies the preservation of his law.

It is only exceptionally that he rises to the discussion of /245/ principle. An account by the sheik an-Nâçirî (1)

1. An-Nâçirî, Ajwiba, ms of the zaouia of the Méz'ud'a, p. 42, l. 19 sq. The jurist is led to subtle distinctions on a community's degree of resistance to the law. "Question: a rural tribe resists legal norms, and replaces them with customary norms and penal tariffications enacted through deliberation. It bases its justice on that. Does it incur the qualification of infidel? Answer: No, but simply of rebel. Objection: but then what is meant by the word of God: 'He who does not act according to the Revelation is an infidel'? Answer: 'That applies only to a tribe considered in its individuals.'" (He means doubtlessly a tribe that has manifested a deliberate initiative in this direction. The anecdote of the ait Asawn in fact follows: those may be qualified as infidels.) One sees that the Chleuh /Shluh/ jurists have sometimes been forced to approach the problem.

shows us a tribe of the Sous, the ait Asawn, symbolic in the name perhaps ("those of the escarpment"), who "bury" the Mussulman Law according to the classical mode of spell, and proclaiming the henceforth obligatory recourse to the "tables" of the ikchchud'en custom, that is, to local codifications. But that is only an extreme case.

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extreme case. The fatwa /futwa/ of the Idaw Zeddut (2)

2. J. Lafond, Les sources du droit coutumier dans le Sous /The sources of customary law in the Sous/, 1948, p. 18.

in the same region, on the other hand, justifies the application of custom as auxiliary source of the law by reference to the same orthodox norms as a jurisconsult of Fès /Fez/, al-Qādirī, justifying the Amal, this pragmatic law that developed in the urban law courts. But neither al-Qādirī nor the Chleuh /Shluh/ jurists fear the innovation, or at least confess it. Moreover, how would they draw the line between deviation and adaptation? In the Orient, as in Morocco, the classical procedure of judicial subterfuges, al-h'iyal, has developed an immense thicket of subtleties where the part of the one and of the other is sometimes indiscernible.

One may observe here and there, I believe, that the dosage, moreover diversified, but present everywhere, between religious law and customary norms has sometimes taken relatively conscious and deliberate forms. And, in the same proportion, that takes away this Berbère /Berber/ primitivism, sometimes the object of overly naïve European enthusiasms (3).

(114) 3. Recourse to a criterion of primitivism for classifying the different "Berbère" juridical systems of North Africa seems to us to have excessively marked the rich works of G. Marcy, "Les caractères généraux du droit coutumier berbère /General characteristics of the Berber customary law/," CHEAM, pp. 4 sq., and especially Le droit coutumier Zemmour /Zemmour customary law/, 1949, pp. 360 sq.

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In any case, this is what forms the originality of the Sous and the Mزاب (4).

4. On this aspect of Mزابite law, L. Milliot, "Recueil de délibérations des djemâas du Mزاب /Collection of deliberations of the djemâas of the Mزاب/, " R. E. I., 1930, p. 223.

But everywhere one finds this double character of Islamic option and cantonal conservatism. Whether it is transactional or, more rarely, insurrectional, the local law has always and everywhere reckoned with the fiqh, has set itself in comparison with the fiqh, indeed sometimes has pretended to be absorbed in it, or believed it.

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Islam and Individual Belief

From the innermost subjectivity of the Chleuh /Shluh/, whose Islamic option is profound and ever bursting forth, to the most well-considered social affirmation -- this society will itself Mussulman. In its great epochs it sought to be the Mussulman society. We find the Prophet everywhere. It is for this reason that it is so difficult to determine his part: it would not be if it were not total, or, more exactly, if it did not will itself, if it did not feel total. Such in fact must be the lot of a universalist faith. As a permanent appeal to the profession of the Unique, to the imitation of His noble witness, the Messenger of God, as a cultural and ethical system, it inspires and governs the soul of the person and that of the people: it has become an essential trait of the country. It would be a fine subtlety to distinguish in as specific a synthesis the part that, of an order properly institutional and of oriental color, has been, not rejected, but eluded by the societies of the Atlas, or adapted and assimilated by them. Nevertheless, in the realm of the law, one can circumscribe the indigenous legacy and the oriental contribution. Concerning the belief, the

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• 779 discrimination will be much more delicate and in many respects impossible.

It seems, however, that the progress of Islam is the very one of individual behavior. It asserts itself fully in this extreme case that is sanctity. The communitarian and naturistic character of the basic rites is naturally further removed from it. Hence the criticism of it that the scholars make. They were not mistaken in denouncing what they called paganism or idolatry: awkward expression of a certain specificity which we would prefer to attribute simply to the vitality of a rural system. Hence, on the other hand, the tendency of the ethnologists to overaccentuate what they believe to be agrarian "magic and religion," whose articulation to a hierarchized ensemble, which is indeed that of a Mussulman society, they do not recognize. Does this mean that, on even the echelon of the jemāa, the Islamic qualification loses in importance what the communitarian play gains? Such an assertion could be upheld only suitably nuanced. First of all, Islam is there in local law, whether it be the inspirer of it or, on the contrary, if I may venture to say it, the driving bolt /Fr. repoussoir/. This will be studied in detail farther on. But Islam reigns equally in the communal house, in this timezgida where the recitation of the Koran punctuates the time of the village and contributes, by periodic feasts, to the most intimate of the collective rites. Finally, it opens up possibilities of escape, felt by each one, and where each vaguely perceives a recourse against the terrible order of /247/ the city: it is true that here one falls back on individual cases.

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171 However that may be, in fact it is certain that in the societies of the Atlas the stage of Islam is that of the person rather than of the group. A fundamental difference from what it was traditionally in the Arab Maghreb, where, conforming to its origins, it corresponds above all to the madīna life, to the professional and scholarly municipal life; of which Fès /Fez/ constitutes in Morocco the privileged example. Here the city is peasant, and proceeds from structures perhaps autochthonous, in any case far removed from the mercantile urbanism which the oriental

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171 prototype created. And so it will be against them that both the individual and the believer will assert themselves. Hence their course, hence this desire for independence and adventure, and in any case a freshness and a liberty which will confer on their faith a very special nuance. It is this that gives the Berbère /Berber/, as magician, as saint, or confrere of minor order, surprising dispositions, well known, for good or evil, from the Orient itself. The man of the Atlas, and by extension the Maghrebi, becomes the individual par excellence, from the time that he seeks to break away from his cadre.

779 To the people of the Atlas, Islam appears, in certain respects, as an urbanism of cadis, bazaars, hebdomadal sermon, elegance, commercial liberalism, good eating and good talk, but also of pashas and makhzanian jails. And all that is found in Marrakech /Marrekesh/ and Taroudant, non licet omnibus. . . That is what will confer, by contrast, well-defined traits to the faith of the montagnard shepherd and woodcutter. Their reaction, once escaped from the "rural system," will, of course, be purism. And there will enter a part of what we would call, quite horribly, a class complex. From the confreric adherence to so mixed a content will then escape from time to time the unitary intellectual, breaking off from both the city of the mountains and the city of the plains. In sum, and on the plane of faith, will be discerned, from the base to the summit, the ardent, uncultivated, and savage crowd of villagers, the fanatic adept of the sheik, the purified devotee, and, at the very top in the peaks, these provisional revolutionaries who are the saint and the reformer. For the moment, the variety of the scale stops there.

General Order of This Research

771 Thus, at the level (1)

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1. For this idea of successive "niveaux" /levels/ of social reality to which we shall

[Ait H'adduyws]

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c) Three mosques particularly armed with powers, and presenting along with that of Ifesfas, which has been mentioned above, the common character /260/ of being built outside a village: perhaps a trace of rites putting the taqbalt more directly into play. Thus, the timezgida Wissil of Uzaga, the t. Wuzir of Tinerghat, the Sidi Ljâma of Alus. One is to note this last name marking a sort of intermediary stage between two orders of ideas: it is a "Saint-the-Mosque";

d) Twenty-one "village mosques."

This would be a total of 34 ritual places, among which only 4 are amenable to a personal hagiology. Not even one in eight! The a. H'adduyws number some 2,700 inhabitants, divided into some thirty ikhs-s. It should be noted that the a. Khaled and the a. Ggahi of Tasa have for ancestors the two Yah'ya, whose tombs are shown and on the subject of whom the rudiments of a legend are told. They are not saints, however. And, moreover, these stories of ancestors are quite exceptional.

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It would be a wager to pursue this quantitative approach to the sacred in Seksawa. It necessarily omits nuances and suffers from multiple sources of imprecision or error. It was attempted, after all, only from a reaction against the descriptive excesses, the generalizing samplings of a certain sociology.

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Nevertheless let us confront the results obtained: The sample dealt with 8 or 9 cantons, a. H'adduyws, I. Geryun, Imt'd-dan, a. Lh'sen, Ibuban, Sekrat, Iguntar, a. Musa, that is, a total population of about 8,000 souls. For about a hundred ritual places, one counts less than ten saints with personal figure, a great majority of anonymous, indeterminate ones. And one verifies the predominant part of the "sacred of timezgida," where it is undoubtedly legitimate to see a communal sacred.

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Now if one bears in mind that, even at present, this timezgida remains par excellence the place of the life of the group, one finds that an important part of the law of these societies can

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671 be understood on a level of indistinction or of solidarity between religious and juridical practices. Under that is glimpsed another level, still more profound, and which certain attitudes, certain proceedings reveal.

The Immediate law

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627 /The following paragraph is in small type in the original source./ The oath is the golden settlement, lfcal uwergh, say the a. Lh'sen. It is the sin of men, their obstinacy in lying that have limited its role. In former times a chain hung from the sky to the earth. It sufficed to touch it in taking an oath in order for all to be settled. But one day a debtor of bad faith hid the disputed sum inside a /261/ reed which he had his creditor hold, while he himself, touching the chain, swore that he had paid his debt. The chain immediately ascended to the sky, as punishment for the deception.

627 That is very precisely a myth. It is not because of its coincidence with a scene from Don Quichotte /Don Quixote/ that we cite it, but because of the remarkable distinction that it suggests between a stage of sworn law, with religious character and immediate sanction, and the present stage, which is that of the proceedings. It is also necessary to rectify on two points its interpretation of the first stage, which is perhaps not the most archaic. Gestures, objects with still more immediate juridical value, are disclosed, vestiges undoubtedly, but still quite alive, in the bosom of the present system (1).

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171 1. Nothing abnormal in that on the plane of comparativism. This stage is found in very ancient Roman law, the beginnings of Greek law, the old Israelite law (story of Moses and Jethro). The affair is settled immediately by recourse to the oath, extispicy, auguries, etc. Elements of this state of things

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[428] 2) Right henceforth acquired by the wife to her part of inheritance anticipated by the law, that is, half of one part of the male heir, conforming to the fiqh. Her right to the acquests remains dependent on an extension of one year of common life.

Conventional part (and facultative in principle):

- 1) The chchard', "stipulated marriage settlement" by the bridegroom for the benefit of the bride;
- 2) The taking in charge, by the same, of the jihaz, "contribution of the bride into the community."

• [788] An official report of these conventions is drawn up in this
[779] case by literate men when the fatih'a is pronounced; this is the only moment when an atmosphere of religious law reigns. A moment short and eccentric, in the proper sense of the term.

c) The "conjugal state," litihai. Its first aspect, to which are attached magical, sentimental, and moral notions, is that of cohabitation and procreation.

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421 Under its second aspect, which is that of a society of work, it includes the right of the woman to her share of acquests (tizzla) among the other participants in the familial society (imezzalen), in equality with each of the latter, men or women, and once the deduction has been made for the contribution of the ones and the others. The marital contribution counts officially for a half out of the ensemble of acquests. That is a patrimonial praecipuum.

[562] The woman's right to her share is regarded as the counterpart of the tasks that custom imposes on her, according to a rigorous discrimination with regard to those that fall to the men. Today it is likewise regarded as compensation for the statutory modicity of the amerwas. This, however, is undoubtedly a reinterpretation.

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562 d) "Dissolution," uluf. The repudiation pronounced by the man is always definitive. The woman's liberation is authorized by the delivery of a document, tabrat, which she often requests by the judiciary route at the same time as her share of acquests. The woman may, as in the fiqh, judicially request the dissolution of the marriage on grounds (cruelty, impotence, etc.), submitted

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675 autochthonous institution, survivals of which are to be found in
585 the asghurt and where it would as yet be only incompletely dis-
586 solved. The comparison of the institutions only ends in an im-
121 passe there, for we are back to the historical problem of the
penetration of the fiqh in this region of Morocco.

779 To the dossier, still quite light, of this discussion, I shall
792 bring only one contribution, but precise and datable: this is a
175 text taken from the Nawâzil of the Cheikh /Sheik/ Mah'ammad
585 ibn Nâçir (d. 1674), master of a great religious brotherhood, and
initiator from the Moroccan South.

675 /The following paragraph is in small type in the original
source./ The Cheikh married persons who had come to rely on
him. He began by questioning two among them, who were of
the same tribe, on the amount of the qadâq in their country at
the same time as on their matrimonial usage. After many si-
lences, they answered him. "We are of your faith and your flock.
Do what you judge good to do." "As for us," said the Cheikh,
"our practice is simple. I myself once gave one of my female
relatives in marriage without asking for anything more than a dish
of couscous for the clerks. Such was in fact the custom of our
ancestors. But I have reformed it and abandoned it in order to
adhere to the sunna of the Prophet. Our present practice is one of
the simplest, be it a matter of the banquet or of the qadâq. I
have fixed the latter at three mithqâl-s of money by weight." He
then added: "Where is the representative of the husband?" He
was pointed out to him. He then requested witnesses, and when
they were before him, in the presence of the representative of the
woman, he declared: "Praise God. We praise Him and by Him
we guide ourselves. Witness that I have married such-and-such a
daughter of so-and-so and such-and-such a son of so-and-so, both
from such-and-such a country, within the rights and stipulations
of the woman, the sunna of the Prophet, and against legitimating
qadâq (2)."

2. Mah'ammad b. Nâçir ad-Dar^cî, Ajwiba, ms.
of the zaouia of the Mez'ud'a, p. 40, l. 11 sq.

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/346/ This took place in the middle of the seventeenth century. It is a matter of a pious personage, a holy man and converter. His family is from the Drâ, from which the Saâdians had surged forth in the preceding century in an intense religious and martial fermentation. Let us not take this evidence for anything other than what it is: an isolated trait in the present state of the examinations. But, as such, it does not cease to be disturbing, as much by what it reveals of the practices of the period as by its orthodoxy, still of a bizarre taste.

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But do we not find the trace of former organizations in the Z'init' fair for wives? According to some evidence from the fourteenth century, the saint camped surrounded by two separate groups: the women and the men. It is not impossible that this was an indication of a classificatory rite. Even now the promise exchanged by the fiancés during the exaltation of the feast and the sacrifice near the tomb of Lalla Aziza creates an irremissible obligation. A man from the Gedmiwa who had ventured to escape from it was found a few years ago hung in his room. Trace of former collective functions? The written sources impose a salutary lesson of prudence over this point in the hypothesis.

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/The following three paragraphs are in small print in the original source./ An act of 916 Heg.: 1510, and one which offers some interest by reproducing this hapax that seems to have been, since Ibn Khaldûn, the name of the Genfisa, is a marriage contract, drawn up according to the habitual pomp of the style of the city. It anticipates a cadâq of 200 dinars, an unheard-of sum for the period. To which are added clothes, jewels, slave. The total is taken care of by the father of the husband, along with the production of real guarantees. A naqd is paid. There are stipulated as the responsibility of the husband, a curious thing in testimony emanating from such an ancient and supposedly such a rough milieu, "pleasantness in relations, the instruction of the woman in her religion, and in attention to the good." This text, by the style, the content, and, one might say, the sentiment, is discordant in these remote cantons.

Another act, more recent, and coming from the great family of the upper valley, this haunt of authenticity that the a. D'alh'a

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613 though encircled, stubbornness goaded by scruples scarcely have an analogue elsewhere in North Africa.

613 The agnatic law in fact among the Seksawa collides not only
 779 with the Mussulman adherence, but with the notarial genre. No
 198 part of their system is dominated more by the fiqh, that is to say,
 671 in this case by the formularies. That is to be understood from the
 writing's having come, with its prestige, to support and at the
 same time to distort the memory of the group. Whence a very
 curious technological richness: under the names of tenzil,
istirkab, assyas, tarik, tabanni, waḥiyya, ḡadaqa, is refined
 and specified, but always in terms of the writing, a juridical per-
 sonality that, in the matter of matrimonial law, as has been seen,
 was always able to remain exorbitant of abstract schemata.
 Nothing surprising in this contrast. In the adaptation to the fiqh,
 this part of the system, out of lack or perhaps out of excess of orig-
 inal substance, has shown more resistance and at the same time
 more docility than the rest.

613 More docility, vulnerability, because the development of the
 act, portative justification, individual weapon, mobilizable prop-
 erty, found in the contractual sense of the milieu an unheard-of
 adjuvant. By that it easily outweighed all the other mnemonic
 methods and benefited from the overwhelming superiority that
 writing manifested when it was a matter of fixing a time, a name,
 a circumstance. But more resistance also, for the permanence of
 the ikhs, the profound accent of its life remain inseparable from
 its material support, inconceivable without its articulation with
 the /349/ agrarian structures and, more broadly, with the physical
 and moral rhythms of these societies. This point has already been
 studied. We shall return to it in the chapter devoted to the landed-
 property law, apropos institutions such as the habous /wākf/ and
 the ḡadaqa.

178 Thus, since the generalization of writing in the Atlas during
 the sixteenth century, a divergent evolution has been produced,
 separating from each other, at the very least in the mode of ex-
 pression, the two faces of the local genius. It has sharpened, by
 a technique incessantly more active, fortified by a mass of

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The Public Law of the "Taqbilt"

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The old acts of penal tariffication most often begin with the formula: "ittafaqû jamâ'a... "in agreement is the jemâ'a." The latter term has become the leit motiv of our North African political sociology. Let us remember its initial ambiguity, due to the etymology. The jemâ'a can only be a "meeting," as the Corf can only be a "presumption." A vein of the fiqh is mixed here with the old communal notions. In many acts and in the conception of a purist writer the word evokes only publicity. This publicity, highly important for example in the matter of marriage, is confounded, it is true, with the auctoritas of the group. The camouflage, at least linguistic, of the montagnard institution has made out of a reality so essential something a bit ephemeral, and which can give rise to reassuring and evasive assimilations. Formidable reality when it is fully deployed, in an insurrectionary convention, for example, as the history of Morocco is full of them (1).

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1. Also in Algeria. Cf. the organization of the chert'ya in L. Rinn, Histoire de l'insurrection de 1871 en Algérie /History of the insurrection of 1871 in Algeria/, 1891, pp. 91 sq.

Mawkish reality when prudence or false shame or /375/ grammatical reserve induce it to express itself only through words with double meaning. The initial formula of the ingâf-s can be interpreted in two senses: communal deliberation or accidental agreement.

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After this preamble comes the name of the chief, the "proposed" one, moqaddem. Again an Arabic word, with an aspect of central power; it is the one that in the present makhzanian system designates the village chief. But here it is quite another thing. This personage is sometimes surrounded by a little senate whose members bear the unexplained name of ait Arbâin, "the

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many dissertations to it (1).

1. For example, as-Suktânî, Ajwiba, ms. Ud ^cAbd al-Mawla, pp. 139 b and 140 b (Deren).

It was undoubtedly under this aspect that the problem of the native law, outside the fiqh, was posed for them. One can thus suppose at the beginning of the sixteenth century, at the probable epoch of the generalization of the notariate in our mountains, a parallel generalization of these codifications. The very name of these elaborations — even if they replaced something older and of which we shall never have any idea, save for the chance of a lucky find — is strictly Arabic. It is the very word, designating this "equity," that our jurists sometimes oppose to the norms properly speaking among the sources of the judgment. Inqaf is a religious word, with moral sonority. If a semantic extension makes it mean "fine," then "penal tariffication," the fiction of an arbitration of the virî prudentes authorizes the transition from one notion to the other. A continuity without rupture is thus established from the orthodox thought and from its paradoxical particulars to the illicitness of purely laic legislations and certain of which, horrors! deal with personal status.

This is what the writers indeed felt, this is what they have always held. Even if one makes allowances for the professional scruples of the scribes, pious men with devout affectation, with sanctimonious words, this characteristic is found even in the content of these charters. Effort at attachment to orthodoxy! A text of 1142 Heg.: 1730 assimilates the compensatory tariff for robbery, practiced in Seksawa, with the canonical penalty of amputation of the hand: in fact, says our doctor, 33 ounces were the value of a hand during the period of the Companions! Every time that it can be done, erudite quotations come to legitimate the foreign communal law. A similar act of 1147 Heg.: 1735, emanating from the "cadi" sidi Moh'ammed, son of the saint of Asstif, strangely joins a quotation from Khaïl to some

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considerations upon the tariff for facial wounds, evaluated at 1/20 of the dîs, that is, 72 Abbassian mithqâls-s. An opinion by a fqîh from Arghen already mentioned (act of Tinwalin of 1198 Heg.: 1784) is based conjointly on the Tuh'fa and on "what rules in the matter of Corf and of Caâa in the country of Sous, from Fès /Fez/ to the Sous, in the matter /382/ of fines and of inçâf: and this is licit for these countrymen."

This pedantic contamination between the statute and the native law is not alone in revealing the true nature of these codifications. From what one is going to see now, even though it is only a matter of indications or traces, will doubtless stand out traits probably more authentic. The preamble of all these texts has already been noted. It is an agreement recording the unanimity of a group on its maçâlih', on its property. One knows indeed what use Malékite /Maliki/ empiricism can make of this latter notion. But enough allowance has been made for the religious impregnations of the system for one also to seek to disclose there another inspiration, that of a collective pragmatism, making sure of its legitimacy by the pursuit of its material and moral interests. This legitimacy manifests itself by social contract. This is not an accident. The contractual aspect is in fact quite striking in these testimonies. This is a mutual commitment among them on the one hand, with the promoted moqaddem on the other, to which the ikhs chiefs subscribe. It obligates them as it obligates the moqaddem, and if the latter, curiously enough, does not figure in the act it is because the consensus of the patres is deemed to entail his conditioned adherence on the basic points stipulated by the document. A contract thus becomes the law of the group.

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The clauses most often constitute a veritable tariffed charter. It is rare to read, as in this document of 961 Heg.: 1583 (Idaw Geryun), that the moqaddem and his assistants "will take" what they please. Such a tone is isolated. In the totality of the cases it is a matter of a minute tariffication. A large number of these documents has been collected by us in the high valley.

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The Community As Organ of
Juridical Creation

"Public law," we would say. To what extent is such an appellation legitimate? In fact, despite the development of the contract in this society, the statutory aspect of many individual relations on the one hand, their implication with collective factors on the other, finally the omnipresence of a communitarian life whose adjuvant force and the feeling of well-being and normalcy that it inspires have for ransom a very extended gamut of sanctions, continually entail the interference of the private and of the public, of the civil and of the penal.

Such an interference will go by itself into an "archaic" law, and the fact that one sets up here a question that elsewhere would be pure scruple, and in addition anachronistic, indicates to what extent the present investigation has believed it necessary to turn aside, apropos the /383/ Seksawa system, and Chleuh /Shluh/ system in general, from such commonly accepted ideas, those of the late Marcy, for example. The distinction of public law and private law is related moreover, especially perhaps in Seksawa, to aspects of expression and elaboration rather than to the nature of things. But aspects how strongly contrasted! Up to the contemporaneous period the jemâa has remained the penal judge. On the other hand, we see from the oldest period that an external magistracy is called upon in order to recognize goods and persons. But, in addition, and on this very matter, the legislator is none other than the group.

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This account has sufficiently marked all the traits of indivision, confusion, or junction between this communal law, as it is expressed or is conceived itself, and the fiqh. As in several departments of private law, it is in a sort of contractual excess that a surpassing of the model, thus a useful alibi, seems to have been sought. This law has outbid a law of citizens and merchants by the meticulous extreme of the cheap-Jack. With its being so close to magico-religious bases, to the communitarian vehemence of the group, it is not by an oath that, like our good towns of the

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thirteenth century, it creates the communal convention. It is by a contract.

One thing nevertheless remained inassimilable even though it tried to absorb it into the accommodating Malékite /Maliki/ opportunism of the maçlah'a. This is the faculty of legislating (1).

1. De Ligniville, "La coutume privée des aït 'Ar't'a du Sahara /The private custom of the aït 'Ar't'a of the Sahara/," in CHEAM, 1937, gives interesting details on some important legislative modifications decided by means of ekklësia: right to inherit granted to the woman, the suppression of the character, executory with respect to marriage, that was given to the application of henna to the conjoints, the husband's designation of ten men prohibited to the repudiated wife, alleviation of the levirate, the introduction of the waly, etc.

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Laic faculty in its foundation, democratic in its exercise, unlimited in its applications. Two examples of it have already been cited: a procedural deliberation over property, and another over the status of the wife and her right to autorepudiation. Two other deliberations, quite recent, have governed the distribution of the offerings of Lalla Aziza and of Sidi Mh'and of Ammern. In both cases the jernâa of the Seksawa had to be aware of the finances of its saints. And although these deliberations have been provoked in our day by a foreign initiative, on grounds a little experimental, they nonetheless include a lesson. It was only to observe the naturalness, the gravity with which the assembly took hold of matters so exorbitant of everyday life — at least to our eyes — in order to understand that to its people its competence extended not only /384/ to the temporal administration, not only to the status of persons and goods, to the whole matter of the

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177 Mediterranean foundation. Thus perhaps here this *Amér u H'ad-dé*, magician-king according to the Arab chronicle, eponym of the highest valley. The *agellid-s* of the fourteenth century were perhaps the first great adapters. But they are buried in an indiscernable past.

The Age of the System

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182 It is thus better to hold fast to a patent fact: that the *Sek-sawa* system realizes a transactional equilibrium with Islam, and undoubtedly in large part conscious.

Great sections of *fiqh* exist intact here and can easily be recognized: use of Arabic writing and orthodox notarial forms. Clear conviction of the user that he is drawing inspiration from the one and the other norm, the indigenous and the oriental, the former gaining through local conditionings, the latter in the /387/ ethical choice. So many traits that would make one think of a profound adulteration of the system. And although composite is not the synonym of backward, the impression would be that one is dealing, in the *Chleuh /Shluh/* law, with a bastard and derived phenomenon. But here is the opposite side.

[212] Invasion by the *fiqh*, certainly. But delimited, elaborated in a personal ensemble. Adoption of writing, certainly, but with the benefit of local prestiges. Assimilation, certainly, but balanced, circumscribed, desired, and sometimes even, one would say, simulated. Would this law then be a very old system able to safeguard, under wise adaptations, its original legacy? Similarly, what is to be concluded concerning its mutation? It presents itself today divided into minuscule personalities of cantons and ravines according to a compartmentalization that, remarkably enough, does not always coincide with that of the ways of speaking. But does that imply youth or decadence? At the very least the existence of a *Chleuh /Shluh/* juridical *koñè*, entirely coherent and thoughtful, although broken up into a thousand varieties, postulates a maturity favorable to the

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formation of large ensembles and broad styles, rather than the spontaneity of youth.

Among its traits, there are some archaic ones. And not only on the plane where one ordinarily looks for -- and finds -- the one of magic or of folklore, but on the plane of the law itself, a matter indeed more irrecusable. First of all, the notion of an agrarian order with ritual sanctions, with magico-religious defenses, survives in some techniques of immediate settlement, some attitudes generative of powers, of movements, or of juridical states. It is probably thus for what touches on the oldest economic foundations: relations for irrigation or pasturing, land-owner equilibrium of the ikhs-s, exchanges with the communal sacred. More on the surface, an agonistic reality is expressed in the judicial joust (1)

1. J. Berque, "Documents anciens sur la coutume immobilière des Seksawa /Ancient documents on the landed-property customs of the Seksawa/, " R. afr., 1948, pp. 399 sq.

and in the very details of the procedural play. But only its expression is individual. It stems in fact from the same archaism upon which are founded the pacts of mystic patronage, seasonal feasts, and the ritual disputes for which they furnish the occasion: thus the auction for the sacrificial meats, still very recognizable under a cloak of notarial law.

But it is this elaboration that leads. A vigorous synthesis takes place at the communal echelon. It suppresses all the rest into incoherence and discontinuity. Collective tension has become /388/ dialectic of litigants. Relations with the sacred take the contractual path. The agrarian order is maintained only by resorting to contentious debate. Islamic schemas dominate the successorial material so much that the indigenous law no longer deviates from the fiqh, apparently at least, except in the quantity of subterfuges, ar. /Arabic/ h'iyal. All this law, which guarantees, through the duration, the permanence of the milieu, has

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182 passed over in a block to the principles of importation, to the point that it is necessary to look very attentively and very far in order to find what it dissembles. More intact, marriage combines, to the exclusion of any liturgical aspect, old practices marking the communitarian intensity and a very acute contractual character. In this genre the institution, which comes to a sort of co-operative ratiocination, outbids Islam. Under this strong notion of individual acquiescence, under the adjacent ideas on which depend the parsimony of the emigrant serving for the resiliation of sales, or the peasant parsimony serving for their consolidation, or the bitter dispute between the familial inheritance and the avarice of each one, are glimpsed a play of investments and almost of agio, a permanent inflation brought by the abundance of importations of cash and the scarcity of land: so many traits that one cannot consider as recent.

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182 Quite on the inverse, here is its very modern cachet. The mobility of civil rights attains an almost citylike rhythm here. The personal value of the obligation, the element of intuitus personae inherent in the contract disappear before a great latitude of negotiation and interchangeability. Thus in the twuliya, "transfer of the rights of the taker, "in the istidkâl, "transfer of successoral rights," and in the unconditional capacity to constitute "mandatory," lukil. The formularies are applied to render by redundances the substitution thus realized. One reads, for example, in a twuliya of the a. Urgan, 906 Heg.: 1654, the following expression: tawfiya çah'ih'a wa'starkaba-hu ff sarfjati-hi wa nazzala-hu ff mah'alli-hi, "valid transfer: he had it get up on his saddle (cf. chl. /Shluh/ tarik, name given to the substitution), and put it (lit. "got down," cf. chl. /Shluh/ verb zuggez, in the same sense) in its proper place." Transmissibility of contractual obligations, infinite play of credit, freedom in representation: all that constitutes a sort of rejoinder to the unwritten laws of the equilibrium between ikhs-s and of patrimonial permanence. This agility of the mobilizations and substitutions extends even to the most unexpected objects, and which one would believe most bound to the identity, truly mystic,

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795 assume a "national" role, and benefit from an organized cult, with great gatherings and financial arrangements. Still higher reign the ties subscribed to by such-and-such a village or, less frequently, such-and-such a taqbilt or such-and-such a family, with regard to saints from the outside. Individual depassments then enter into play. But confreric affiliation is scarcely represented in Seksawa, or rather is confounded there, under certain of these aspects, with the particular devotions to such-and-such a "marabout": here and there in the mountains one finds the faithful of sidi Ah'med u Musa, who attend his end-of-summer mussem. Purely individual matter, matter of "conscience" and also of mode, hence the growth and decadence of a brotherhood like the Nâqiriyya for example, quite decayed from what it was a century ago. Matter of craze also, indeed of vertigo, as was seen at the time of the push of Mâ' l-Aynîn in 1912. And there one touches upon the richness, the unforeseeability of a spirituality whose movements of course largely surpass the cadre of the Seksawa or even of the Atlas.

771 /391/ The liaison to the ground and the hagiological creation are formed diversely according to these stages, at each of which their power is affirmed, one might say, in inverse proportion to each other. At the base, a collective allegiance sustained by an agrarian order. At the intermediary stage, rudiments of cantonal, indeed federal, cult. Then contracts between groups and patron saints. Finally, purely personal devotion. So many social modes, orders of ideas and sentiments that are echeloned on these different levels, but not, it is true, without interferences of one with the other. And Islam reacts, constantly although unequally, on everything.

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177 In the law, on the contrary, there has not only been transformation, but reconstruction. Borrowed norms have operated on a layer less deep than the old institutions that they tended to supplant. This discordance has brought adjustment. Consequently, a strong denivellation today separates the spirit of this law from its procedure, and even from the mores through which it attempts to safeguard, in spite of this procedure, what is essential for it. Thus

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181 The outside contribution clashes more with the local authen-
177 ticity, and it more willingly, one might say, accepts it. From
day to day the system increases its amplitude, magnifies its
virtuosity to welcome. The Mussulman exclusion of usury is
going to be fashioned in it with an immemorial practice of credit
with interest. The preferences of the fiqh for the contract, which
[177] it substitutes every time it can for the rite or the statute, are
[675] adopted with enthusiasm by this communitarian society, which
goes further. In that the fiqh will not only be accepted, but sur-
passed, caricatured. The milieu has brought into play its prodi-
gious agility of means, its dangerous munificence of gifts. Acro-
batic conciliation with its profound, and in a sense parodic,
options.

121 One is not sure in fact that a certain play, some incertitude,
indeed even this vagueness that so opportunely authorizes bilin-
gualism, are not contrived as evasion. Game aspect, ruse aspect,
surprise aspect, absurdity aspect: so many, if I may venture to say
it, relief escapements left to the ennui of the honest Chleuh
/Shluh/ man, which mortify both his own ideal and the adventure
of the times.

The system of the Seksawa, or of another such of these popu-
lations, naturally does not present itself as a body of doctrine,
even though the preceding analyses have, perhaps to excess, in-
dicated the part of the deliberate. It is especially a technical
ensemble corresponding to an ensemble of emotions, to a certain
121 awareness of the just and the unjust. This feeling, it is history
175 that has created it. Now this is a history of retreats and defeats.
The decrecendo of hope undoubtedly began among the Seksawa
with the construction of the citadel of al-Qāhira, which pushed
them back toward the mountains. Elsewhere, with other events,
standing out from a general failure: /393/ the one that sanctioned
in the last third of the thirteenth century the installation of the
Mérinides at Marrakech, among the last jumps of Almohadism.
For our Seksawa, these jumps lasted throughout the fourteenth
century.

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Recourse To the External and
To the Transcendent

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The system of the taqbilt, far from being an immediate datum of analysis, appears, by this head, itself conditioned. As fiercely defended as it is, it never remains isolated. It is intelligible only as resultant. Not only has it been subjected to influences, but it is posed and is conceived of only in relation to exterior or superior entities (1).

1. Cf. the views of Marc Block on "feudal" societies, Ann. hist. soc., 1939, p. 14.

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It adheres to a great monotheism, Islam. It is fond of the marvels of towns and of the plain, and avid to appropriate, while neutralizing them, innovations and progress, or simply singularities. This imbues it with enthusiasms, defiances, ambiguities, and above all unrest. It feels besieged. Its culture is transactional. Its sense of justice, although violent and original, has not escaped the touches of such a sentiment. The Seksawa order, this order with compression and explosion, is also an order that disguises itself, for it judges itself, and judges itself wrongly. The ritual life, from its external manifestations to its most intimate movements, is resolved into divisions compounding, unequally according to the levels, the local spontaneity with the external contribution.

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In its topographical materiality, the Seksawa domain is inseparable from the Chleuh /Shluh/ ensemble. The same coefficient of painstaking, and almost systematic, variety that opposes customs from canton to canton, opposes the law of the Seksawa with that of this ensemble. Everything happens as if the personalities that we observe deep-rooted, and as though contracted, at the bottom of the valley grounds came from the rupture of a larger body. This perhaps explains a curious phenomenon: the fact that in this fragmentation, there has not been concordance between the law and the language. Their lines of variation do not

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556 always reigned. But at the same time the life of the workers in
184 the gardens, the "khemmas," is more and more miserable. Only
511 a temporary emigration to the towns of Morocco, to France, or
[167] to Algeria enables the adult men to earn, by hard work, the
[464] money necessary for the subsistence of their families remaining
in the country.

• 779 XI. The religious life. -- The Sous is -- the rest of its his-
tory will make us understand by what circumstances -- profound-
[346] ly subject to Islamic religious influences. The millenary work
of the reformers, leaders of brotherhoods, and holy personages
whose whitewashed domes so often strike the traveler's eye in this
country has been crowned with success, and one would look in
vain as far as the farthest valleys for a hamlet without a mosque.

795 /49/ The major religious duties, prayer, fasting, alms, are
[788] observed with care. Even the pilgrimage is frequently performed
[554] by the notables, merchants, and well-to-do men, especially in
[184] the tribes of the plains and mountains of the South, among whom
[798] an ardent attachment for religion persists up to the present, ac-
companied besides by hate and scorn for the Christian.

But whatever may be the attachment of the Sous Berbères
/Berbers/ to Islam, they nevertheless like to express it within the
narrow boundaries of their little states. They reserve for their
[554] marabouts, scholars and talebs /public scribes/ the gain from
their tithes.

779 As in all the rest of North Africa the cult of the saints mani-
776 fests itself here in its familiar aspects so often described. One
[771] can even observe that the veneration of the Chleuhs /Shluh/ for
[792] their marabouts can be modeled on the various forms of their
social organization. We shall soon see the importance of these
*[631] small superimposed states, which are the fraction, similar to a
[619] canton, the tribe, whose territory embraces several valleys, the
confederation, which sometimes extends over a whole versant of
the mountain. Now it may be said that each of these groups pos-
776 sesses its patron saints. For example, the most venerated sanc-
778 tuaries, those of Moulay Brahim of the Kik, Lalla "Aziza of the
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The Berbère /Berber/ republics purchase this right to enter into a large state by still other sacrifices. In former times the internal wars, through the play of balanced alliances, engaged only hundreds of warriors armed with bad guns on the frontiers of these small cantons; henceforth, having come to the border of subjugated country, the tribe stands the shock of considerable masses of combatants, Arabs from the "gich" of the plains in the service of the Makhzen /makhzan/, Berbères /Berbers/ enslaved by entire confederations, innumerable contingents of the great kaid. When these harkas penetrate into the territory, no resistance is possible; in a few hours all the villages, the secular agadirs themselves are destroyed. Now entered on the list of the "naiba" tribes, the little state whose life formerly flowed on in a mountain cirque also participates in distant expeditions. The warriors will go tomorrow to re-establish a kaid in the Dra or to fight a rogui /one who aspires to overthrow the sultan/ north of Fès; during these travels they will learn of laws other than the ones of their village and will come back impressed by Arab influences, city habits unknown up to then.

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But above all, conquest by the Makhzen /makhzan/ sanctions the definitive ruin of the "orf," the Berbère /Berber/ law. For long centuries custom was tractable in order to become conformable with the essential rules of the religious law. In this country, which has seen so many reformers of Islam, scholars, and jurists arise, a slow penetration of the principles of the "chra" /shar", Sharia, Islamic law/ continued imperceptibly in order to eliminate, in the tribal law, the arrangements opposed to those of the holy book (1).

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1. One would scarcely find -- except in what concerns the "rehanía" -- the antichresis -- a few rules opposed to the chra" /shar" in the collections of customary law of the tribes of the Sous and of the Anti-Atlas.

Soon the "orf" comes to be limited to the repression of crimes